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INTERNATIONAL, INC.

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION
10

11 ALLIED FEATHER & DOWN CORP.,
12 a California corporation,

13 Plaintiff,

14 vs.

15 DOWN-LITE INTERNATIONAL,
INC., an Ohio corporation, and DOES 1
16 through 10, inclusive,

17 Defendants.
18

19 DOWN-LITE INTERNATIONAL,
INC., an Ohio corporation,

20 Counter Claimant,

21 vs.
22

23 ALLIED FEATHER & DOWN CORP.,
a California corporation,

24 Counter Defendant.
25
26
27
28

Case No. 2:20-cv-01938 JAK-ADS

PROTECTIVE ORDER

Judge: Hon. John A. Kronstadt

1 On May 27, 2020, Down-Lite International, Inc. filed a Stipulated [Proposed]
2 Protective Order on behalf of both parties. Having reviewed and found good cause
3 for the same:

4 **THE COURT HEREBY ORDERS** the following:

5 1. **PURPOSES AND LIMITATIONS**

6 Discovery in this action is likely to involve production of confidential,
7 proprietary or private information for which special protection from public
8 disclosure and from use for any purpose other than pursuing this litigation may be
9 warranted. Accordingly, the parties hereby stipulate to and petition the Court to
10 enter the following Stipulated Protective Order. The parties acknowledge that this
11 Order does not confer blanket protections on all disclosures or responses to
12 discovery and that the protection it affords from public disclosure and use extends
13 only to the limited information or items that are entitled to confidential treatment
14 under the applicable legal principles.

15 2. **GOOD CAUSE STATEMENT**

16 This action is likely to involve trade secrets, customer and pricing lists and
17 other valuable commercial, financial, and/or proprietary information for which
18 special protection from public disclosure and from use for any purpose other than
19 prosecution of this action is warranted. Such confidential and proprietary materials
20 and information consist of, among other things, confidential business or financial
21 information, information regarding confidential business practices, or other
22 confidential commercial information (including information implicating privacy
23 rights of third parties), information otherwise generally unavailable to the public, or
24 which may be privileged or otherwise protected from disclosure under state or
25 federal statutes, court rules, case decisions, or common law. Accordingly, to
26 expedite the flow of information, to facilitate the prompt resolution of disputes over
27 confidentiality of discovery materials, to adequately protect information the parties
28 are entitled to keep confidential, to ensure that the parties are permitted reasonable

1 necessary uses of such material in preparation for and in the conduct of trial, to
 2 address their handling at the end of the litigation, and serve the ends of justice, a
 3 protective order for such information is justified in this matter. It is the intent of the
 4 parties that information will not be designated as confidential for tactical reasons
 5 and that nothing be so designated without a good faith belief that it has been
 6 maintained in a confidential, non-public manner, and there is good cause why it
 7 should not be part of the public record of this case.

8 3. ACKNOWLEDGEMENT OF UNDER SEAL FILING PROCEDURE

9 The parties further acknowledge, as set forth in Section 14.3, below, that this
 10 Stipulated Protective Order does not entitle them to file confidential information
 11 under seal; Local Civil Rule 79-5 sets forth the procedures that must be followed
 12 and the standards that will be applied when a party seeks permission from the court
 13 to file material under seal. There is a strong presumption that the public has a right
 14 of access to judicial proceedings and records in civil cases. In connection with non-
 15 dispositive motions, good cause must be shown to support a filing under seal. *See*
 16 *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1176 (9th Cir. 2006),
 17 *Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002), *Makar-*
 18 *Welbon v. Sony Electronics, Inc.*, 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even
 19 stipulated protective orders require good cause showing), and a specific showing of
 20 good cause or compelling reasons with proper evidentiary support and legal
 21 justification, must be made with respect to Protected Material that a party seeks to
 22 file under seal. The parties' mere designation of Disclosure or Discovery Material as
 23 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY
 24 does not— without the submission of competent evidence by declaration,
 25 establishing that the material sought to be filed under seal qualifies as confidential,
 26 privileged, or otherwise protectable—constitute good cause.

27 Further, if a party requests sealing related to a dispositive motion or trial, then
 28 compelling reasons, not only good cause, for the sealing must be shown, and the

1 relief sought shall be narrowly tailored to serve the specific interest to be protected.
 2 *See Pintos v. Pacific Creditors Ass'n.*, 605 F.3d 665, 677-79 (9th Cir. 2010). For
 3 each item or type of information, document, or thing sought to be filed or introduced
 4 under seal, the party seeking protection must articulate compelling reasons,
 5 supported by specific facts and legal justification, for the requested sealing order.
 6 Again, competent evidence supporting the application to file documents under seal
 7 must be provided by declaration.

8 Any document that is not confidential, privileged, or otherwise protectable in
 9 its entirety will not be filed under seal if the confidential portions can be redacted. If
 10 documents can be redacted, then a redacted version for public viewing, omitting
 11 only the confidential, privileged, or otherwise protectable portions of the document,
 12 shall be filed. Any application that seeks to file documents under seal in their
 13 entirety should include an explanation of why redaction is not feasible.

14 4. DEFINITIONS

15 4.1 Action: *Allied Feather & Down Corp. v. Down-lite International, Inc.*,
 16 Case No. 2:20-cv-01938-JAK-ADS (C.D. Cal.), as well as related action: *Down-lite*
 17 *International, Inc. v. Paice Partners, LLC and Chad Altbaier*, Case No. 1:19-cv-
 18 00627-SJD (S.D. Ohio).

19 4.2 Challenging Party: a Party or Non-Party that challenges the designation
 20 of information or items under this Order.

21 4.3 “CONFIDENTIAL” Information or Items: information (regardless of
 22 how it is generated, stored or maintained) or tangible things that qualify for
 23 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
 24 the Good Cause Statement.

25 4.4 Counsel: Outside Counsel of Record and House Counsel (as well as
 26 their support staff).

27 4.5 Designating Party: a Party or Non-Party that designates information or
 28 items that it produces in disclosures or in responses to discovery as

1 “CONFIDENTIAL.”

2 4.6 Disclosure or Discovery Material: all items or information, regardless
3 of the medium or manner in which it is generated, stored, or maintained (including,
4 among other things, testimony, transcripts, and tangible things), that are produced or
5 generated in disclosures or responses to discovery.

6 4.7 Expert: a person with specialized knowledge or experience in a matter
7 pertinent to the litigation who has been retained by a Party or its counsel to serve as
8 an expert witness or as a consultant in this Action.

9 4.8 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
10 Information or Items: extremely sensitive “Confidential Information or Items,”
11 disclosure of which to another Party or Non-Party would create a substantial risk of
12 serious harm that could not be avoided by less restrictive means.

13 4.9 House Counsel: attorneys who are employees of a party to this Action.
14 House Counsel does not include Outside Counsel of Record or any other outside
15 counsel.

16 4.10 Non-Party: any natural person, partnership, corporation, association or
17 other legal entity not named as a Party to this action.

18 4.11 Outside Counsel of Record: attorneys who are not employees of a party
19 to this Action but are retained to represent a party to this Action and have appeared
20 in this Action on behalf of that party or are affiliated with a law firm that has
21 appeared on behalf of that party, and includes support staff.

22 4.12 Party: any party to this Action, including all of its officers, directors,
23 employees, consultants, retained experts, and Outside Counsel of Record (and their
24 support staffs).

25 4.13 Producing Party: a Party or Non-Party that produces Disclosure or
26 Discovery Material in this Action.

27 4.14 Professional Vendors: persons or entities that provide litigation support
28 services (e.g., photocopying, videotaping, translating, preparing exhibits or

demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

4.15 Protected Material: any Disclosure or Discovery Material that is designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

4.16 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

5. SCOPE

The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal Protected Material.

Any use of Protected Material at trial shall be governed by the orders of the trial judge and other applicable authorities. This Order does not govern the use of Protected Material at trial.

6. DURATION

Once a case proceeds to trial, information that was designated as CONFIDENTIAL or HIGHLY CONFIDENTIAL-ATTORNEYS’ EYES ONLY or maintained pursuant to this protective order used or introduced as an exhibit at trial becomes public and will be presumptively available to all members of the public, including the press, unless compelling reasons supported by specific factual findings to proceed otherwise are made to the trial judge in advance of the trial. *See Kamakana*, [447 F.3d at 1180-81](#) (distinguishing “good cause” showing for sealing documents produced in discovery from “compelling reasons” standard when merits-related documents are part of court record). Accordingly, the terms of this protective order do not extend beyond the commencement of the trial. The parties may seek to protect such items from public disclosure at trial by filing a motion to seal in

1 accordance with Section 14.3 of this Protective Order.

2 7. DESIGNATING PROTECTED MATERIAL

3 7.1 Exercise of Restraint and Care in Designating Material for Protection.

4 Each Party or Non-Party that designates information or items for protection under
5 this Order must take care to limit any such designation to specific material that
6 qualifies under the appropriate standards. The Designating Party must designate for
7 protection only those parts of material, documents, items or oral or written
8 communications that qualify so that other portions of the material, documents, items
9 or communications for which protection is not warranted are not swept unjustifiably
10 within the ambit of this Order.

11 Mass, indiscriminate or routinized designations are prohibited. Designations
12 that are shown to be clearly unjustified or that have been made for an improper
13 purpose (e.g., to unnecessarily encumber the case development process or to impose
14 unnecessary expenses and burdens on other parties) may expose the Designating
15 Party to sanctions.

16 If it comes to a Designating Party's attention that information or items that it
17 designated for protection do not qualify for protection, that Designating Party must
18 promptly notify all other Parties that it is withdrawing the inapplicable designation.

19 7.2 Manner and Timing of Designations. Except as otherwise provided in
20 this Order, or as otherwise stipulated or ordered, Disclosure of Discovery Material
21 that qualifies for protection under this Order must be clearly so designated before
22 the material is disclosed or produced.

23 Designation in conformity with this Order requires:

24 (a) for information in documentary form (e.g., paper or electronic
25 documents, but excluding transcripts of depositions or other pretrial or trial
26 proceedings), that the Producing Party affix at a minimum, the legend
27 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
28 ONLY" (hereinafter the "Confidentiality Legend") to each page that contains

1 protected material. If only a portion of the material on a page qualifies for
 2 protection, the Producing Party also must clearly identify the protected portion(s)
 3 (e.g., by making appropriate markings in the margins).

4 A Party or Non-Party that makes original documents available for inspection
 5 need not designate them for protection until after the inspecting Party has indicated
 6 which documents it would like copied and produced.

7 During the inspection and before the designation, all of the material made
 8 available for inspection shall be deemed “CONFIDENTIAL” or “HIGHLY
 9 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the inspecting Party has
 10 identified the documents it wants copied and produced, the Producing Party must
 11 determine which documents, or portions thereof, qualify for protection under this
 12 Order. Then, before producing the specified documents, the Producing Party must
 13 affix the Confidentiality Legend to each page that contains Protected Material. If
 14 only a portion of the material on a page qualifies for protection, the Producing Party
 15 also must clearly identify the protected portion(s) (e.g., by making appropriate
 16 markings in the margins).

17 (b) for testimony given in depositions that the Designating Party identifies
 18 the Disclosure or Discovery Material on the record, before the close of the
 19 deposition all protected testimony.

20 (c) for information produced in some form other than documentary and for
 21 any other tangible items, that the Producing Party affix in a prominent place on the
 22 exterior of the container or containers in which the information is stored the
 23 Confidentiality Legend. If only a portion or portions of the information warrants
 24 protection, the Producing Party, to the extent practicable, shall identify the protected
 25 portion(s).

26 7.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
 27 failure to designate qualified information or items does not, standing alone, waive
 28 the Designating Party’s right to secure protection under this Order for such material.

Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

8. CHALLENGING CONFIDENTIALITY DESIGNATIONS

8.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court's Scheduling Order.

8.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process under Local Rule 37-1 et seq.

8.3 Joint Stipulation. Any challenge submitted to the Court shall be via a joint stipulation pursuant to Local Rule 37-2.

8.4 The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the Court rules on the challenge.

9. ACCESS TO AND USE OF PROTECTED MATERIAL

9.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this Action only for prosecuting, defending or attempting to settle the Action. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the Action has been terminated, a Receiving Party must comply with the provisions of section 15 below (FINAL DISPOSITION).

Protected Material must be stored and maintained by a Receiving Party at a

1 location and in a secure manner that ensures that access is limited to the persons
2 authorized under this Order.

3 9.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
4 otherwise ordered by the court or permitted in writing by the Designating Party, a
5 Receiving Party may disclose any information or item designated
6 “CONFIDENTIAL” only to:

7 (a) the Receiving Party’s Outside Counsel of Record in this Action,
8 as well as employees of said Outside Counsel of Record to whom it is reasonably
9 necessary to disclose the information for this Action;

10 (b) the officers, directors, and employees (including House Counsel)
11 of the Receiving Party to whom disclosure is reasonably necessary for this Action;

12 (c) Experts (as defined in this Order) of the Receiving Party to
13 whom disclosure is reasonably necessary for this Action and who have signed the
14 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

15 (d) the court and its personnel;

16 (e) court reporters and their staff;

17 (f) professional jury or trial consultants, mock jurors, and
18 Professional Vendors to whom disclosure is reasonably necessary for this Action
19 and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit
20 A);

21 (g) the author or recipient of a document containing the information
22 or a custodian or other person who otherwise possessed or knew the information;

23 (h) during their depositions, witnesses, and attorneys for witnesses,
24 in the Action to whom disclosure is reasonably necessary provided: (1) the deposing
25 party requests that the witness sign the form attached as Exhibit A hereto; and (2)
26 they will not be permitted to keep any confidential information unless they sign the
27 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
28 agreed by the Designating Party or ordered by the court. Pages of transcribed

1 deposition testimony or exhibits to depositions that reveal Protected Material may
2 be separately bound by the court reporter and may not be disclosed to anyone except
3 as permitted under this Stipulated Protective Order; and

4 (i) any mediators or settlement officers and their supporting
5 personnel, mutually agreed upon by any of the parties engaged in settlement
6 discussions.

7 9.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
8 ONLY” Information or Items. Unless otherwise ordered by the court or permitted in
9 writing by the Designating Party, a Receiving Party may disclose any information or
10 item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only
11 to:

12 (a) the Receiving Party’s Outside Counsel of Record in this action,
13 as well as employees of said Outside Counsel of Record to whom it is reasonably
14 necessary to disclose the information for this litigation and who have signed the
15 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit
16 A;

17 (b) Experts of the Receiving Party (1) to whom disclosure is
18 reasonably necessary for this litigation, (2) who have signed the “Acknowledgment
19 and Agreement to Be Bound” (Exhibit A), and (3) as to whom the procedures set
20 forth in paragraph 9.4(b), below, have been followed];

21 (c) the court and its personnel;

22 (d) court reporters and their staff, professional jury or trial
23 consultants, and Professional Vendors to whom disclosure is reasonably necessary
24 for this litigation and who have signed the “Acknowledgment and Agreement to Be
25 Bound” (Exhibit A); and

26 (e) the author or recipient of a document containing the information
27 or a custodian or other person who otherwise possessed or knew the information

28 9.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY

1 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items to
2 Designated House Counsel or Experts.

3 (a) Unless otherwise ordered by the court or agreed to in writing by
4 the Designating Party, a Party that seeks to disclose to Designated House Counsel
5 any information or item that has been designated “HIGHLY CONFIDENTIAL –
6 ATTORNEYS’ EYES ONLY” pursuant to paragraph 9.3(c) first must make a
7 written request to the Designating Party that (1) sets forth the full name of the
8 Designated House Counsel and the city and state of his or her residence, and (2)
9 describes the Designated House Counsel’s current and reasonably foreseeable future
10 primary job duties and responsibilities in sufficient detail to determine if House
11 Counsel is involved, or may become involved, in any competitive decision-making.

12 (b) Unless otherwise ordered by the court or agreed to in writing by
13 the Designating Party, a Party that seeks to disclose to an Expert (as defined in this
14 Order) any information or item that has been designated “HIGHLY
15 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant to paragraph 9.3(d)
16 first must make a written request to the Designating Party that (1) identifies the
17 general categories of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
18 information that the Receiving Party seeks permission to disclose to the Expert, (2)
19 sets forth the full name of the Expert and the city and state of his or her primary
20 residence, (3) attaches a copy of the Expert’s current resume, (4) identifies the
21 Expert’s current employer(s), (5) identifies each person or entity from whom the
22 Expert has received compensation or funding for work in his or her areas of
23 expertise or to whom the expert has provided professional services, including in
24 connection with a litigation, at any time during the preceding five years, and (6)
25 identifies (by name and number of the case, filing date, and location of court) any
26 litigation in connection with which the Expert has offered expert testimony,
27 including through a declaration, report, or testimony at a deposition or trial, during
28 the preceding five years.

1 (c) A Party that makes a request and provides the information
2 specified in the preceding respective paragraphs may disclose the subject Protected
3 Material to the identified Designated House Counsel or Expert unless, within 14
4 days of delivering the request, the Party receives a written objection from the
5 Designating Party. Any such objection must set forth in detail the grounds on which
6 it is based.

7 (d) A Party that receives a timely written objection must meet and
8 confer with the Designating Party (through direct voice to voice dialogue) to try to
9 resolve the matter by agreement within seven days of the written objection. If no
10 agreement is reached, the Party seeking to make the disclosure to Designated House
11 Counsel or the Expert may file a motion as provided in Civil Local Rule 7 (and in
12 compliance with Civil Local Rule 79-5, if applicable) seeking permission from the
13 court to do so. Any such motion must describe the circumstances with specificity,
14 set forth in detail the reasons why the disclosure to Designated House Counsel or the
15 Expert is reasonably necessary, assess the risk of harm that the disclosure would
16 entail, and suggest any additional means that could be used to reduce that risk. In
17 addition, any such motion must be accompanied by a competent declaration
18 describing the parties' efforts to resolve the matter by agreement (i.e., the extent and
19 the content of the meet and confer discussions) and setting forth the reasons
20 advanced by the Designating Party for its refusal to approve the disclosure.

21 In any such proceeding, the Party opposing disclosure to Designated House
22 Counsel or the Expert shall bear the burden of proving that the risk of harm that the
23 disclosure would entail (under the safeguards proposed) outweighs the Receiving
24 Party's need to disclose the Protected Material to its Designated House Counsel or
25 Expert.

26 10. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
27 IN OTHER LITIGATION

28 If a Party is served with a subpoena or a court order issued in other litigation

1 that compels disclosure of any information or items designated in this Action as
2 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
3 ONLY,” that Party must:

4 (a) promptly notify in writing the Designating Party. Such
5 notification shall include a copy of the subpoena or court order;

6 (b) promptly notify in writing the party who caused the subpoena or
7 order to issue in the other litigation that some or all of the material covered by the
8 subpoena or order is subject to this Protective Order. Such notification shall include
9 a copy of this Stipulated Protective Order; and

10 (c) cooperate with respect to all reasonable procedures sought to be
11 pursued by the Designating Party whose Protected Material may be affected. If the
12 Designating Party timely seeks a protective order, the Party served with the
13 subpoena or court order shall not produce any information designated in this action
14 as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
15 ONLY” before a determination by the court from which the subpoena or order
16 issued, unless the Party has obtained the Designating Party’s permission. The
17 Designating Party shall bear the burden and expense of seeking protection in that
18 court of its confidential material and nothing in these provisions should be construed
19 as authorizing or encouraging a Receiving Party in this Action to disobey a lawful
20 directive from another court.

21 11. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO
22 BE PRODUCED IN THIS LITIGATION

23 (a) The terms of this Order are applicable to information produced
24 by a Non-Party in this Action and designated as “CONFIDENTIAL” or “HIGHLY
25 CONFIDENTIAL-ATTORNEYS’ EYES ONLY.” Such information produced by
26 Non-Parties in connection with this litigation is protected by the remedies and relief
27 provided by this Order. Nothing in these provisions should be construed as
28 prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this Action, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party, if requested.

(c) If the Non-Party fails to seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

12. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the "Acknowledgment an

1 Agreement to Be Bound” attached hereto as Exhibit A.

2 13. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
3 PROTECTED MATERIAL

4 When a Producing Party gives notice to Receiving Parties that certain
5 inadvertently produced material is subject to a claim of privilege or other protection,
6 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
7 Procedure 26(b)(5)(B). This provision is not intended to modify whatever
8 procedure may be established in an e-discovery order that provides for production
9 without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e),
10 insofar as the parties reach an agreement on the effect of disclosure of a
11 communication or information covered by the attorney-client privilege or work
12 product protection, the parties may incorporate their agreement in the stipulated
13 protective order submitted to the court.

14 14. MISCELLANEOUS

15 14.1 Right to Further Relief. Nothing in this Order abridges the right of any
16 person to seek its modification by the Court in the future.

17 14.2 Right to Assert Other Objections. By stipulating to the entry of this
18 Protective Order, no Party waives any right it otherwise would have to object to
19 disclosing or producing any information or item on any ground not addressed in this
20 Stipulated Protective Order. Similarly, no Party waives any right to object on any
21 ground to use in evidence of any of the material covered by this Protective Order.

22 14.3 Filing Protected Material. A Party that seeks to file under seal any
23 Protected Material must comply with Local Civil Rule 79-5. Protected Material may
24 only be filed under seal pursuant to a court order authorizing the sealing of the
25 specific Protected Material. If a Party’s request to file Protected Material under seal
26 is denied by the court, then the Receiving Party may file the information in the
27 public record unless otherwise instructed by the court.

28

1 15. FINAL DISPOSITION

2 After the final disposition of this Action, as defined in paragraph 6, within 60
 3 days of a written request by the Designating Party, each Receiving Party must return
 4 all Protected Material to the Producing Party or destroy such material. As used in
 5 this subdivision, "all Protected Material" includes all copies, abstracts, compilations,
 6 summaries, and any other format reproducing or capturing any of the Protected
 7 Material. Whether the Protected Material is returned or destroyed, the Receiving
 8 Party must submit a written certification to the Producing Party (and, if not the same
 9 person or entity, to the Designating Party) by the 60-day deadline that (1) identifies
 10 (by category, where appropriate) all the Protected Material that was returned or
 11 destroyed and (2) affirms that the Receiving Party has not retained any copies,
 12 abstracts, compilations, summaries or any other format reproducing or capturing any
 13 of the Protected Material. Notwithstanding this provision, Counsel are entitled to
 14 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing
 15 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
 16 reports, attorney work product, and consultant and expert work product, even if such
 17 materials contain Protected Material. Any such archival copies that contain or
 18 constitute Protected Material remain subject to this Protective Order as set forth in
 19 Section 6 (DURATION).

20 16. VIOLATION

21 Any violation of this Order may be punished by appropriate measures
 22 including, without limitation, contempt proceedings and/or monetary sanctions.

23 that the parties' [Proposed] Protective Order be entered.

24 IT IS SO ORDERED.

25
 26 DATED: June 1, 2010

/s/ Autumn D. Spaeth
 AUTUMN D. SPAETH
 United States Magistrate Judge

EXHIBIT A

ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address, telephone number,
and if appropriate, affiliation], declare under penalty of perjury that I have read in its
entirety and understand the Protective Order that was issued by the United States
District Court for the Central District of California in *Allied Feather & Down Corp.*
v. Down-lite International, Inc., Case No. 2:20-cv-01938-JAK-ADS (C.D. Cal.). I
agree to comply with and to be bound by all the terms of this Protective Order, and I
understand and acknowledge that failure to comply could expose me to sanctions
and punishment for contempt. I solemnly promise that I will not disclose in any
manner any information or item that is subject to this Protective Order to any person
or entity except in strict compliance with this Order.

I further agree to submit to the jurisdiction of the United States District Court
for the Central District of California for the purpose of enforcing this Order, even if
such enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full
name], of _____ [print or type full address, telephone
number, and if appropriate, affiliation], as my California agent for service of process
in connection with this action, or any proceedings related to enforcement of this
Order.

Dated: _____ Printed Name: _____

Signature: _____

PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of San Francisco, State of California. My business address is 235 Montgomery Street, 17th Floor, San Francisco, CA 94104.

On March 27, 2020, I served true copies of the following document(s) described as **[PROPOSED] PROTECTIVE ORDER**

on the interested parties in this action as follows:

Matthew Oster
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Down Corp.

Michael Sigall
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BY CM/ECF NOTICE OF ELECTRONIC FILING: I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on March 27, 2020, at San Francisco, California.



Anna S. Fuller